



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2010 REGULAR SESSION

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HOUSE BILL NO. 558

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MONDAY, MARCH 15, 2010

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The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE April 13, 2010  
1:45 pm  
\_\_\_\_\_  
TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adkins

AN ACT relating to intellectual disabilities.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔Section 1. The General Assembly recognizes the negative impact that the use of  
2 certain words and phrases can have on some of the Commonwealth's most exceptional  
3 citizens. The General Assembly states its intention that henceforth it shall attempt to  
4 utilize language that references, but does not equate, an individual to a disability. The  
5 General Assembly furthermore expresses its intention that the rest of the citizens of the  
6 Commonwealth, when referencing intellectual disabilities, will join it in eschewing those  
7 words and phrases that can operate to treat a person and an intellectual disability  
8 interchangeably.

9        ➔Section 2. KRS 17.150 is amended to read as follows:

10    (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer,  
11 parole officer; warden or superintendent of a prison, reformatory, correctional  
12 school, mental hospital, or institution for the intellectually disabled~~[retarded]~~;  
13 Department of Kentucky State Police; state fire marshal; Board of Alcoholic  
14 Beverage Control; Cabinet for Health and Family Services; Transportation Cabinet;  
15 Department of Corrections; Department of Juvenile Justice; and every other person  
16 or criminal justice agency, except the Court of Justice and the Department for  
17 Public Advocacy, public or private, dealing with crimes or criminals or with  
18 delinquency or delinquents, when requested by the cabinet, shall:

- 19    (a) Install and maintain records needed for reporting data required by the cabinet;
- 20    (b) Report to the cabinet as and when the cabinet requests all data demanded by it,  
21        except that the reports concerning a juvenile delinquent shall not reveal the  
22        juvenile's or the juvenile's parents' identity;
- 23    (c) Give the cabinet or its accredited agent access for purpose of inspection; and
- 24    (d) Cooperate with the cabinet to the end that its duties may be properly  
25        performed.

- 1 (2) Intelligence and investigative reports maintained by criminal justice agencies are  
2 subject to public inspection if prosecution is completed or a determination not to  
3 prosecute has been made. However, portions of the records may be withheld from  
4 inspection if the inspection would disclose:
- 5 (a) The name or identity of any confidential informant or information which may  
6 lead to the identity of any confidential informant;
  - 7 (b) Information of a personal nature, the disclosure of which will not tend to  
8 advance a wholesome public interest or a legitimate private interest;
  - 9 (c) Information which may endanger the life or physical safety of law  
10 enforcement personnel; or
  - 11 (d) Information contained in the records to be used in a prospective law  
12 enforcement action.
- 13 (3) When a demand for the inspection of the records is refused by the custodian of the  
14 record, the burden shall be upon the custodian to justify the refusal of inspection  
15 with specificity. Exemptions provided by this section shall not be used by the  
16 custodian of the records to delay or impede the exercise of rights granted by this  
17 section.
- 18 (4) Centralized criminal history records are not subject to public inspection. Centralized  
19 history records mean information on individuals collected and compiled by the  
20 Justice and Public Safety Cabinet from criminal justice agencies and maintained in  
21 a central location consisting of identifiable descriptions and notations of arrests,  
22 detentions, indictments, information, or other formal criminal charges and any  
23 disposition arising therefrom, including sentencing, correctional supervision, and  
24 release. The information shall be restricted to that recorded as the result of the  
25 initiation of criminal proceedings or any proceeding related thereto. Nothing in this  
26 subsection shall apply to documents maintained by criminal justice agencies which  
27 are the source of information collected by the Justice and Public Safety Cabinet.

1 Criminal justice agencies shall retain the documents and no official thereof shall  
 2 willfully conceal or destroy any record with intent to violate the provisions of this  
 3 section.

4 (5) The provisions of KRS Chapter 61 dealing with administrative and judicial  
 5 remedies for inspection of public records and penalties for violations thereof shall  
 6 be applicable to this section.

7 (6) The secretary of justice and public safety shall adopt the administrative regulations  
 8 necessary to carry out the provisions of the criminal history record information  
 9 system and to insure the accuracy of the information based upon recommendations  
 10 submitted by the commissioner, Department of Kentucky State Police.

11 (7) The Administrative Office of the Courts may, upon suitable agreement between the  
 12 Chief Justice and the secretary of justice and public safety, supply criminal justice  
 13 information and data to the cabinet. No information, other than that required by  
 14 KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk,  
 15 justice or judge, court, or agency of the Court of Justice unless the solicitation or  
 16 request for information is made pursuant to an agreement which may have been  
 17 reached between the Chief Justice and the secretary of justice and public safety.

18 ➔Section 3. KRS 43.050 is amended to read as follows:

19 (1) The Auditor constitutes an agency independent of the administrative departments  
 20 enumerated in KRS 12.020, it being the policy of the General Assembly to provide  
 21 for the independent auditing of the accounts, financial transactions, and  
 22 performance of all spending agencies of the state through a disinterested auditor,  
 23 who is entirely independent of the state administration whose affairs he is called  
 24 upon to audit.

25 (2) The Auditor shall:

26 (a) Audit annually, and at such other times as may be deemed expedient, the  
 27 accounts of all state agencies, all private and semiprivate agencies receiving

1 state aid or having responsibility for the handling of any state funds, the  
2 accounts, records, and transactions of the budget units, and the general  
3 accounts of the state.

4 (b) Make a complete audit and verification of all moneys handled for the account  
5 of the state government by local officials charged with the collection of fees or  
6 other money for or on behalf of the state, when an audit is demanded in  
7 writing by the Legislative Research Commission, the secretary of the Finance  
8 and Administration Cabinet or the Governor, and may make an audit when it  
9 is not so demanded.

10 (c) Examine periodically the performance, management, conduct, and condition  
11 of all asylums, prisons, institutions for the intellectually disabled~~mentally~~  
12 ~~retarded~~, and eleemosynary institutions; public works owned, operated, or  
13 partly owned by the state, or in the conduct or management of which the state  
14 has any financial interest or legal power; and state agencies. The examinations  
15 shall give special attention to the faithful and economical application of any  
16 money appropriated by the state to the institution, public works, or state  
17 agency examined, or of any money in which the state has an interest.

18 (d) Examine annually the management and condition of the offices of the Finance  
19 and Administration Cabinet, the State Treasurer, and the chief state school  
20 officer, to determine whether the laws regulating their duties are being fully  
21 complied with, and all money received by them for the state fully accounted  
22 for.

23 (e) Examine, at least biennially, the Finance and Administration Cabinet's  
24 compliance with this section and KRS 48.111 and 56.800 to 56.823. Within  
25 sixty (60) days of the completion of each examination, the Auditor shall report  
26 his findings and recommendations to the Capital Projects and Bond Oversight  
27 Committee.

- 1       (f) Audit periodically all state revenue collections, and, if he finds that collections  
2           are not being satisfactorily made, report that fact to the authority whose duty it  
3           is to make the collections.
- 4       (g) Make special audits and investigations when required by the Governor.
- 5       (h) Investigate the means of accounting for, controlling, and insuring the safe  
6           custody of all property of the state, and verify the existence and condition of  
7           such property charged to, or held in the custody of any state agency.
- 8       (i) Audit the statements of financial condition and operations of the state  
9           government, and certify in writing the results of the audit and examination  
10          with the comments he deems necessary for the information of the General  
11          Assembly.
- 12       (j) Report immediately in writing to the Governor, each member of the  
13           Legislative Research Commission, and the secretary of the Finance and  
14           Administration Cabinet, any unauthorized, illegal, irregular, or unsafe  
15           handling or expenditure of state funds, or other improper practice of financial  
16           administration, or evidence that any such handling, expenditure, or practice is  
17           contemplated, and any obstruction of the Auditor or his agents during the  
18           conduct of any audit or investigation of a state agency.
- 19       (k) Assist the Legislative Research Commission at hearings and investigations  
20           conducted by it and cooperate with the Legislative Research Commission in  
21           the preparation of its reports to the General Assembly.
- 22       (l) Keep accounts showing the costs of his own operations and of each separate  
23           audit and investigation made by him, and the accounts he deems necessary to  
24           provide a record of warrants of the state outstanding as of the end of each  
25           calendar month.
- 26       (3) The Auditor may investigate and examine into the conduct of all state and county  
27           officers who are authorized to receive, collect, or disburse any money for the state,

1 or who manage or control any property belonging to the state or in which the state is  
 2 interested, or who make estimates or records that are used as a basis by any state  
 3 agency in the disbursement of public funds.

- 4 (4) The Auditor shall not be responsible for the keeping of any accounts of the state,  
 5 except accounts relating to his own operations, and records of outstanding warrants.  
 6 He shall not be responsible for the collection of any money due the state, or for the  
 7 handling or custody of any state funds or property except in the process of counting  
 8 and verifying the amounts of the funds or property in the course of the audits  
 9 provided for in this section.

10 ➔Section 4. KRS 43.080 is amended to read as follows:

- 11 (1) The Auditor and his authorized agents shall have access to and may examine all  
 12 books, accounts, reports, vouchers, correspondence files, records, money and  
 13 property of any state agency. Every officer or employee of any such agency having  
 14 such records or property in his possession or under his control shall permit access to  
 15 and examination of them upon the request of the Auditor or any agent authorized by  
 16 him to make such request.
- 17 (2) The Auditor and his assistants shall have access at all times to the papers, books and  
 18 records of the asylums, prisons, institutions for the intellectually disabled~~mentally~~  
 19 ~~retarded~~ and eleemosynary institutions, and public works that he is authorized to  
 20 examine, and of any county officer who receives or disburses county funds.
- 21 (3) The Auditor may require information on oath from any person touching any matters  
 22 relative to any account that the Auditor is required to state, audit or settle. The  
 23 Auditor may administer the oath himself, or have it done by any officer authorized  
 24 to administer an oath.
- 25 (4) The Auditor and his assistants may issue process and compel the attendance of  
 26 witnesses before them, and administer oaths and compel witnesses to testify in any  
 27 of the investigations the Auditor is authorized to make.

1        ➔Section 5. KRS 43.990 is amended to read as follows:

- 2        (1) Any officer who prevents, attempts to prevent or obstructs an examination by the  
3        Auditor, under the provisions of paragraph (c) of subsection (2) of KRS 43.050, or  
4        of subsection (3) of KRS 43.050, into his official conduct, or the conduct or  
5        condition of the office in his charge or with which he is connected, except when the  
6        office constitutes a state agency, is guilty of a high misdemeanor, and, upon  
7        conviction on indictment in the Franklin Circuit Court, shall be fined five hundred  
8        dollars (\$500) and removed by the Governor. Any person, other than an officer,  
9        who prevents, attempts to prevent or obstructs such an examination shall be fined  
10       one thousand dollars (\$1,000).
- 11       (2) If the Auditor fails or refuses without good cause to perform the duties imposed  
12       upon him by KRS 43.060, he shall be fined not less than two hundred and fifty  
13       dollars (\$250) nor more than one thousand dollars (\$1,000) for each offense.
- 14       (3) Any county officer who prevents, attempts to prevent or obstructs an examination  
15       by the Auditor, under KRS 43.070, into his official conduct, or the conduct or  
16       condition of the office in his charge or with which he is connected, is guilty of a  
17       high misdemeanor, and shall, upon indictment and conviction in the Franklin  
18       Circuit Court, be fined five hundred dollars (\$500). Any person, other than a county  
19       officer, who prevents, attempts to prevent or obstructs such an examination shall be  
20       fined one thousand dollars (\$1,000).
- 21       (4) Any officer or other person who fails or refuses to permit the access and  
22       examination provided for in subsection (1) of KRS 43.080, or who interferes with  
23       such examination, shall be fined not less than one hundred dollars (\$100), or  
24       imprisoned in the county jail for not less than one (1) month nor more than twelve  
25       (12) months, or both. Each refusal by an officer shall constitute a separate offense.
- 26       (5) Any person who has custody of any papers, books or records of an asylum, prison,  
27       institution for the intellectually disabled~~mentally retarded~~ or eleemosynary



1 institution or public works, other than a state agency, that the Auditor is authorized  
 2 to examine under paragraph (c) of subsection (2) of KRS 43.050, under subsection  
 3 (3) of KRS 43.050, and under subsection (2) of KRS 43.080, who fails or refuses,  
 4 when called upon by the Auditor for that purpose, to permit him to inspect any of  
 5 such papers, books or records, shall, upon conviction on indictment in the Franklin  
 6 Circuit Court, be fined not more than five hundred dollars (\$500) and be subject to  
 7 removal by the Governor.

8 (6) Any person who refuses to be sworn when required by the Auditor to be sworn for  
 9 the purpose mentioned in subsection (3) of KRS 43.080 shall be fined not more than  
 10 one hundred dollars (\$100).

11 (7) Any witness called by the Auditor under subsection (4) of KRS 43.080 who fails,  
 12 without legal excuse, to attend or testify shall be fined not more than two hundred  
 13 and fifty dollars (\$250).

14 ➔Section 6. KRS 61.165 is amended to read as follows:

15 (1) Except as otherwise specified for the Capitol and Capitol Annex in KRS 61.167, a  
 16 policy for smoking in governmental office buildings or workplaces shall be adopted  
 17 by state government. This policy shall apply to all state-owned or state-operated  
 18 office buildings, workplaces, and facilities, including but not limited to state-  
 19 operated hospitals and residential facilities for the intellectually disabled~~mentally~~  
 20 ~~retarded~~, state-operated veterans' nursing homes and health facilities, and any  
 21 correctional facility owned by, operated by, or under the jurisdiction of the state.

22 (2) Except as otherwise specified for the Capitol and Capitol Annex in KRS 61.167,  
 23 any policy relating to smoking in state office buildings or workplaces shall be by  
 24 executive order of the Governor or action of the General Assembly, and shall:

25 (a) 1. Require the governmental authority to provide accessible indoor  
 26 smoking areas in any buildings where smoking is otherwise restricted;  
 27 and

1           2.    Favor allowing smoking in open public areas where ventilation and air  
2                   exchange are adequate and there are no restrictions otherwise placed on  
3                   the area by the state fire marshal or other similar authority; or

4           (b)   Prohibit indoor smoking.

5   (3)   Except as otherwise specified for the Capitol and Capitol Annex in KRS 61.167, a  
6           policy for smoking in governmental office buildings or workplaces may be adopted  
7           by county, municipal, special district, urban-county, charter county, or consolidated  
8           local governments. Any policy adopted under this subsection may apply to any  
9           office buildings, workplaces, or facilities that are owned by, operated by, or under  
10          the jurisdiction of that government, including but not limited to jails and detention  
11          facilities. Any policy relating to smoking in governmental office buildings or  
12          workplaces of counties, municipalities, special districts, urban-county governments,  
13          charter county governments, or consolidated local governments shall be adopted in  
14          writing by the legislative body of the government and shall:

15       (a)   1.

16           Require the government authority to provide accessible indoor smoking areas  
17           in any buildings where smoking is otherwise restricted; and

18          2.    Favor allowing smoking in open public areas where ventilation and air  
19                   exchange are adequate and there are no restrictions otherwise placed on  
20                   the area by the state fire marshal or other similar authority; or

21       (b)   Prohibit indoor smoking.

22   (4)   Each board of regents or trustees for each of the state postsecondary education  
23          institutions shall adopt a written policy relating to smoking in all buildings owned  
24          by, operated by, or under the jurisdiction of the state postsecondary education  
25          institutions that shall:

26       (a)   1.   Provide accessible indoor smoking areas in any buildings where  
27                   smoking is otherwise restricted; and

- 1           2. Favor allowing smoking in open public areas where ventilation and air  
2           exchange are adequate and there are no restrictions otherwise placed on  
3           the area by the state fire marshal or other similar authority; or

4           (b) Prohibit indoor smoking.

5           ➔Section 7. KRS 158.135 is amended to read as follows:

6           (1) As used in this section, unless the context otherwise requires:

7           (a) "State agency children" means:

- 8           1. a. Those children of school age committed to or in custody of the  
9           Cabinet for Health and Family Services and placed, or financed by  
10           the cabinet, in a Cabinet for Health and Family Services operated  
11           or contracted institution, treatment center, facility, including those  
12           for therapeutic foster care and excluding those for nontherapeutic  
13           foster care; or

- 14           b. Those children placed or financed by the Cabinet for Health and  
15           Family Services in a private facility pursuant to child care  
16           agreements including those for therapeutic foster care and  
17           excluding those for nontherapeutic foster care;

- 18           2. Those children of school age in home and community-based services  
19           provided as an alternative to intermediate care facility services for the  
20           intellectually disabled~~[mentally retarded]~~; and

- 21           3. Those children committed to or in custody of the Department of Juvenile  
22           Justice and placed in a department operated or contracted facility or  
23           program.

24           (b) "Current costs and expenses" means all expenditures, other than for capital  
25           outlay and debt service, which are in excess of the amount generated by state  
26           agency children under the Support Education Excellence in Kentucky funding  
27           formula pursuant to KRS 157.360. These expenditures are necessary to

1 provide a two hundred thirty (230) day school year, smaller teacher pupil  
2 ratio, related services if identified on an individual educational plan, and more  
3 intensive educational programming.

4 (c) "Therapeutic foster care" means a remedial care program for troubled children  
5 and youth that is in the least restrictive environment where the foster parent is  
6 trained to implement planned, remedial supervision and care leading to  
7 positive changes in the child's behavior. Children served in this placement  
8 have serious emotional problems and meet one (1) or more of the following  
9 criteria:

- 10 1. Imminent release from a treatment facility;
- 11 2. Aggressive or destructive behavior;
- 12 3. At risk of being placed in more restrictive settings, including  
13 institutionalization; or
- 14 4. Numerous placement failures.

15 (2) (a) Unless otherwise provided by the General Assembly in a budget bill, any  
16 county or independent school district that provides elementary or secondary  
17 school services to state agency children shall be reimbursed through a contract  
18 with the Kentucky Educational Collaborative for State Agency Children. The  
19 school services furnished to state agency children shall be equal to those  
20 furnished to other school children of the district.

21 (b) The Department of Education shall, to the extent possible within existing  
22 appropriations, set aside an amount of the state agency children funds  
23 designated by the General Assembly in the biennial budget to reimburse a  
24 school district for its expenditures exceeding twenty percent (20%) of the total  
25 amount received from state and federal sources to serve a state agency child.

26 (3) The General Assembly shall, if possible, increase funding for the education  
27 programs for state agency children by a percentage increase equal to that provided

1 in the biennial budget for the base funding level for each pupil in the program to  
 2 support education excellence in Kentucky under KRS 157.360 and, if applicable, by  
 3 an amount necessary to address increases in the number of state agency children  
 4 being served.

5 (4) The Kentucky Educational Collaborative for State Agency Children shall make to  
 6 the chief state school officer the reports required concerning school services for  
 7 state agency children, and shall file with the Cabinet for Health and Family Services  
 8 unit operating or regulating the institution or day treatment center, or contracting for  
 9 services, in which the children are located a copy of the annual report made to the  
 10 chief state school officer.

11 (5) The Cabinet for Health and Family Services shall contract with a university-  
 12 affiliated training resource center utilizing all funds generated by the children in  
 13 state agency programs, except Oakwood and Hazelwood funds, and the funds in the  
 14 Kentucky Department of Education budget, pursuant to this section, as well as any  
 15 other educational funds for which all Kentucky children are entitled. The total of  
 16 these funds shall be utilized to provide educational services through the Kentucky  
 17 Educational Collaborative for State Agency Children established in KRS 605.110.

18 (6) Notwithstanding the provisions of any other statute, the Kentucky Educational  
 19 Collaborative for State Agency Children shall operate a two hundred thirty (230)  
 20 day school program.

21 ➔Section 8. KRS 164.2865 is amended to read as follows:

22 The General Assembly hereby finds and declares that:

23 (1) Meningococcal meningitis disease is a potentially fatal infectious and contagious  
 24 bacterial disease that can be spread by coughing and sharing drinking glasses;

25 (2) Since the disease often presents itself with flu-like symptoms, many victims of the  
 26 disease die before it is even diagnosed. From 1991 to 1997, the cases of  
 27 meningococcal meningitis disease in young adults fifteen (15) to twenty-four (24)

- 1 years of age nearly doubled;
- 2 (3) Survivors of meningococcal meningitis disease may have severe after-effects of the
- 3 disease, including an intellectual disability~~[mental retardation]~~, hearing loss, and
- 4 loss of limbs;
- 5 (4) College freshmen residing on campus in dormitories or residence halls have a risk
- 6 of meningococcal meningitis disease over seven (7) times higher than do college
- 7 students overall;
- 8 (5) The meningococcal meningitis disease vaccine has been shown to be eighty-five
- 9 percent (85%) to ninety percent (90%) effective in producing antibodies against the
- 10 most common strains of the disease; and
- 11 (6) The Centers for Disease Control and Prevention (CDC) recommends that college
- 12 freshmen and their parents be educated about meningococcal meningitis disease and
- 13 that vaccination should be made easily available to freshmen and undergraduate
- 14 students who want to reduce their risk of disease.

15 ➔Section 9. KRS 194A.010 is amended to read as follows:

- 16 (1) The cabinet is the primary state agency for operating the public health, Medicaid,
- 17 certificate of need and licensure, and mental health and intellectual
- 18 disability~~[mental retardation]~~ programs in the Commonwealth. The function of the
- 19 cabinet is to improve the health of all Kentuckians, including the delivery of
- 20 population, preventive, reparative, and containment health services in a safe and
- 21 effective fashion, and to improve the functional capabilities and opportunities of
- 22 Kentuckians with disabilities. The cabinet is to accomplish its function through
- 23 direct and contract services for planning and through the state health plan and
- 24 departmental plans for program operations, for program monitoring and standard
- 25 setting, and for program evaluation and resource management.
- 26 (2) The cabinet is the primary state agency responsible for leadership in protecting and
- 27 promoting the well-being of Kentuckians through the delivery of quality human

1 services. Recognizing that children are the Commonwealth's greatest natural  
2 resource and that individuals and their families are the most critical component of a  
3 strong society, the cabinet shall deliver social services to promote the safety and  
4 security of Kentuckians and preserve their dignity. The cabinet shall promote  
5 collaboration and accountability among local, public, and private programs to  
6 improve the lives of families and children, including collaboration with the Council  
7 on Accreditation for Children and Family Services or its equivalent in developing  
8 strategies consistent with best practice standards for delivery of services. The  
9 cabinet also shall administer income-supplement programs that protect, develop,  
10 preserve, and maintain individuals, families, and children in the Commonwealth.

11 ➔Section 10. KRS 194A.735 is amended to read as follows:

- 12 (1) Subject to sufficient funding, the Cabinet for Health and Family Services and the  
13 Justice and Public Safety Cabinet, in consultation with any other state agency as  
14 appropriate, shall develop and implement a homelessness prevention pilot project  
15 that offers institutional discharge planning on a voluntary basis to persons exiting  
16 from state-operated or supervised institutions involving mental health and foster  
17 care programs, and persons serving out their sentences in any state-operated prison  
18 in Oldham County.
- 19 (2) The primary goal of the project shall be to prepare a limited number of persons in a  
20 foster home under supervision by the Cabinet for Health and Family Services, state-  
21 operated prison in Oldham County under supervision by the Justice and Public  
22 Safety Cabinet, and mental health facility under supervision by the Cabinet for  
23 Health and Family Services for return or reentry into the community, and to offer  
24 information about any necessary linkage of the person to needed community  
25 services and supports.
- 26 (a) The pilot project shall be jointly supported by each of the cabinets. One (1)  
27 office for the pilot project shall be located in a family resource center or

1 Department for Community Based Services building in Jefferson County, due  
2 to its urban population, and one (1) office shall be located in Clinton,  
3 Cumberland, McCreary, or Wayne County, due to its rural population. The  
4 pilot project office in Jefferson County shall serve persons intending to locate  
5 in Jefferson County who are being released from a mental health facility under  
6 supervision by the Cabinet for Health and Family Services and persons  
7 intending to locate in Jefferson County who are being released after serving  
8 out their sentences from any state-operated prison in Oldham County. The  
9 pilot project office in Clinton, Cumberland, McCreary, or Wayne County shall  
10 serve persons intending to locate in Clinton, Cumberland, McCreary, or  
11 Wayne County who are aging out of the foster care program following  
12 placement in Clinton, Cumberland, McCreary, or Wayne County.

13 (b) Within thirty (30) days following July 13, 2004, the cabinets shall supply each  
14 pilot project director with the collection of information on available  
15 employment, social, housing, educational, medical, mental health, and other  
16 community services in the county. The information shall include but not be  
17 limited to the service area of each public and private provider of services, the  
18 capacity of each provider to render services to persons served by the pilot  
19 project, the fees of each provider, contact names and telephone numbers for  
20 each provider, and an emergency contact for each provider.

21 (c) Within thirty (30) days following July 13, 2004, the cabinets and directors  
22 shall begin a program of education for each of the cabinet and foster home and  
23 mental health and appropriate state-operated prison facility staff who will  
24 participate in the development of a discharge plan for volunteer participants  
25 under this section.

26 (3) The pilot project shall operate on a voluntary basis. One (1) of each five (5) persons  
27 eligible for discharge or completing their sentence shall be offered the opportunity



1 to participate in the pilot program. This offer shall be made at least six (6) months  
2 prior to discharge. There shall be a cap on the number of persons served in each  
3 office, to be determined by available funding and staffing requirements.

4 (a) The staff member designated as the homelessness prevention coordinator for  
5 each foster home or mental health facility shall maintain a file for each  
6 volunteer participant in the foster home or mental health facility, relating to  
7 the participant's employment, social, housing, educational, medical, and  
8 mental health needs. This file shall be updated from time to time as  
9 appropriate and pursuant to an administrative regulation promulgated by the  
10 cabinet in accordance with KRS Chapter 13A that establishes standards for  
11 the discharge summary. The staff member designated as the homelessness  
12 prevention coordinator for the appropriate state-operated prison participating  
13 in the pilot project shall maintain a file containing appropriate forms  
14 completed and updated by each person voluntarily participating in the pilot  
15 project, relating to the information provided under subsection (6) of this  
16 section. All applicable privacy and confidentiality laws shall be followed in  
17 assembling and maintaining this file.

18 (b) Six (6) months prior to the expected date of discharge, the discharge  
19 coordinator for each foster home and mental health and state-operated prison  
20 facility shall contact the homelessness prevention director for Jefferson  
21 County or the homelessness prevention director for Clinton, Cumberland,  
22 McCreary, or Wayne County, as appropriate, about the pending release of the  
23 volunteer participant who is eligible for discharge from a foster home or  
24 mental health facility or who will have served out his or her sentence in a  
25 state-operated prison facility that is participating in the pilot project. The  
26 director shall visit the home or facility, as appropriate, to assist with the  
27 preparation of the final comprehensive discharge plan.

1       (c) The director and the discharge coordinator for each participating foster home  
 2       and mental health and state-operated prison facility shall work together to  
 3       develop a final comprehensive discharge plan that addresses the employment,  
 4       health care, educational, housing, and other needs of the person to be released,  
 5       subject to the consent of the person and the funding and staffing capabilities  
 6       of the director. Information provided by the coordinator may include and be  
 7       limited to, subject to the staffing and funding capabilities of the coordinator,  
 8       information provided by the person to be released on a form or forms made  
 9       available by the foster home or mental health or state-operated prison facility.

10       The discharge plan shall contain but not be limited to the following:

- 11       1. Estimated discharge date from the foster home, state-operated prison  
 12       facility, or mental health facility;
- 13       2. Educational background of the person to be released, including any  
 14       classes completed or skills obtained by the person while in the foster  
 15       home, state-operated prison facility, or mental health facility;
- 16       3. The person's medical and mental health needs;
- 17       4. Other relevant social or family background information;
- 18       5. A listing of previous attempts to arrange for post-release residence,  
 19       employment, medical and mental health services, housing, education,  
 20       and other community-based services for the person; and
- 21       6. Other available funding and public programs that may reimburse any  
 22       services obtained from a provider listed in the discharge plan. Every  
 23       effort shall be made in the discharge plan to refer the person to a  
 24       provider that has agreed to an arranged public or private funding  
 25       arrangement.

26       No discharge plan shall be completed unless the written consent, consistent  
 27       with state and federal privacy laws, to compile the information and prepare the

1 plan has been given by the person eligible for release who has volunteered to  
 2 participate in the pilot program.

3 (4) The director shall assist with the completion of a final comprehensive discharge  
 4 plan that may include but need not be limited to the following:

5 (a) Availability of appropriate housing, including but not limited to a twenty-four  
 6 (24) month transitional program, supportive housing, or halfway house.

7 Planning discharge to an emergency shelter is not appropriate to meet the  
 8 housing needs of the person being discharged from foster care, a state-  
 9 operated prison facility, or a mental health facility;

10 (b) Access to appropriate treatment services for participants who require follow-  
 11 up treatment;

12 (c) Availability of appropriate employment opportunities, including assessment of  
 13 vocational skills and job training; and

14 (d) Identification of appropriate opportunities to further education.

15 (5) Discharge planning shall be individualized, comprehensive, and coordinated with  
 16 community-based services.

17 (a) Each discharge plan shall create a continuous, coordinated, and seamless  
 18 system that is designed to meet the needs of the person.

19 (b) Staff of the foster home or facility and staff of community-based services  
 20 providers shall be involved in the planning.

21 (c) Each facility shall utilize, wherever possible, community-based services  
 22 within the facility to establish familiarity of the person residing in the facility  
 23 with the community services.

24 (6) The Department of Corrections shall, through an administrative regulation  
 25 promulgated in accordance with KRS Chapter 13A, develop a discharge plan that  
 26 addresses the education; employment, technical, and vocational skills; and housing,  
 27 medical, and mental health needs of a person who is to be released after serving out

1 his or her sentence in a state-operated prison facility participating in the pilot  
2 project.

3 (7) Appropriate data about discharge placements and follow-up measures shall be  
4 collected and analyzed. The analysis shall be included in the interim and final  
5 reports of the pilot program specified in subsection (8) of this section.

6 (8) Each homelessness prevention director shall have regular meetings with appropriate  
7 state cabinet and agency staff to review the pilot project and make recommendations  
8 for the benefit of the program. Each director shall be assisted by a local advisory  
9 council composed of local providers of services and consumer advocates who are  
10 familiar with homelessness prevention issues. Priority for membership on the  
11 advisory council shall be given to existing resources and regional mental health and  
12 substance abuse advisory councils at the discretion of the director.

13 (9) Each cabinet shall collect data about the discharge plans, referrals, costs of services,  
14 and rate of recidivism related to the homelessness prevention program, and shall  
15 submit an annual report to the Governor and the Legislative Research Commission  
16 no later than October 1 that summarizes the data and contains recommendations for  
17 the improvement of the program. The annual report also shall be forwarded to the  
18 Kentucky Commission on Services and Supports for Individuals with an  
19 Intellectual Disability~~[Mental Retardation]~~ and Other Developmental Disabilities,  
20 Kentucky Commission on Services and Supports for Individuals with Mental  
21 Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and the  
22 Kentucky Housing Corporation Homelessness Policy Council.

23 ➔Section 11. KRS 205.470 is amended to read as follows:

24 (1) As used in this section, "aging caregiver" means an individual age sixty (60) or  
25 older who provides care for an individual with an intellectual disability~~[mental~~  
26 ~~retardation]~~ or other developmental disability.

27 (2) If state, federal, or other funds are available, the Kentucky Department for Mental

1 Health and Mental Retardation Services shall, in cooperation with the Department  
 2 for Aging and Independent Living and the Department for Medicaid Services,  
 3 establish a centralized resource and referral center designed as a one-stop, seamless  
 4 system to provide aging caregivers with information and assistance with choices  
 5 and planning for long-term supports for individuals with an intellectual  
 6 disability~~mental retardation~~ or developmental disability.

7 (3) The center created in subsection (2) of this section shall provide but not be limited  
 8 to the following services:

9 (a) Comprehensive information on available programs and services, including but  
 10 not limited to:

- 11 1. Residential services;
- 12 2. Employment training;
- 13 3. Supported employment;
- 14 4. Behavioral support;
- 15 5. Respite services;
- 16 6. Adult day health or adult day social services;
- 17 7. Support coordination;
- 18 8. Home or environmental modifications;
- 19 9. Community living services, including an attendant, and assistance with  
 20 homemaking, shopping, and personal care;
- 21 10. Support groups in the community;
- 22 11. Psychiatric services;
- 23 12. Consumer-directed options;
- 24 13. Attorneys or legal services to assist with will preparation; and
- 25 14. The impact of inheritance on government benefits and options, including  
 26 establishing a special needs trust;

27 (b) Printed material and Internet-based information related to:

- 1           1. Options for future planning;
- 2           2. Financial and estate planning;
- 3           3. Wills and trusts; and
- 4           4. Advance directives and funeral and burial arrangements; and
- 5       (c) Referral to community resources.
- 6       (4) The center created in subsection (2) of this section shall operate a toll-free number
- 7           at least during regular business hours and shall publish information required in
- 8           paragraph (a) of subsection (3) of this section and a description of services provided
- 9           by the center on a cabinet Web site.
- 10       (5) The center created in subsection (2) of this section shall make the information listed
- 11           in subsection (3) of this section available to the support broker and any
- 12           representative of an individual who is participating in a Medicaid consumer-
- 13           directed option.
- 14       (6) The center shall use electronic information technology to track services provided
- 15           and to follow-up with individuals served and provide additional information or
- 16           referrals as needed.
- 17       (7) The department may contract with a private entity to provide the services required
- 18           under subsections (2) and (3) of this section.
- 19       (8) The cabinet may provide services identified in subsection (3) of this section to
- 20           individuals of any age who are caregivers of individuals with mental retardation or
- 21           developmental disability.
- 22       (9) Prior to January 1, 2008, the department shall submit a report to the Interim Joint
- 23           Committee on Health and Welfare that includes but is not limited to the following
- 24           information:
- 25           (a) The number of individuals who contacted the center;
- 26           (b) A description of the categories of questions asked by individuals calling the
- 27           center; and

1 (c) A summary of the services provided, including the community resources to  
2 which individuals were referred.

3 ➔Section 12. KRS 205.560 is amended to read as follows:

4 (1) The scope of medical care for which the Cabinet for Health and Family Services  
5 undertakes to pay shall be designated and limited by regulations promulgated by the  
6 cabinet, pursuant to the provisions in this section. Within the limitations of any  
7 appropriation therefor, the provision of complete upper and lower dentures to  
8 recipients of Medical Assistance Program benefits who have their teeth removed by  
9 a dentist resulting in the total absence of teeth shall be a mandatory class in the  
10 scope of medical care. Payment to a dentist of any Medical Assistance Program  
11 benefits for complete upper and lower dentures shall only be provided on the  
12 condition of a preauthorized agreement between an authorized representative of the  
13 Medical Assistance Program and the dentist prior to the removal of the teeth. The  
14 selection of another class or other classes of medical care shall be recommended by  
15 the council to the secretary for health and family services after taking into  
16 consideration, among other things, the amount of federal and state funds available,  
17 the most essential needs of recipients, and the meeting of such need on a basis  
18 insuring the greatest amount of medical care as defined in KRS 205.510 consonant  
19 with the funds available, including but not limited to the following categories,  
20 except where the aid is for the purpose of obtaining an abortion:

21 (a) Hospital care, including drugs, and medical supplies and services during any  
22 period of actual hospitalization;

23 (b) Nursing-home care, including medical supplies and services, and drugs during  
24 confinement therein on prescription of a physician, dentist, or podiatrist;

25 (c) Drugs, nursing care, medical supplies, and services during the time when a  
26 recipient is not in a hospital but is under treatment and on the prescription of a  
27 physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall

1 include products for the treatment of inborn errors of metabolism or genetic  
 2 conditions, consisting of therapeutic food, formulas, supplements, or low-  
 3 protein modified food products that are medically indicated for therapeutic  
 4 treatment and are administered under the direction of a physician, and include  
 5 but are not limited to the following conditions:

- 6 1. Phenylketonuria;
- 7 2. Hyperphenylalaninemia;
- 8 3. Tyrosinemia (types I, II, and III);
- 9 4. Maple syrup urine disease;
- 10 5. A-ketoacid dehydrogenase deficiency;
- 11 6. Isovaleryl-CoA dehydrogenase deficiency;
- 12 7. 3-methylcrotonyl-CoA carboxylase deficiency;
- 13 8. 3-methylglutaconyl-CoA hydratase deficiency;
- 14 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase  
 15 deficiency);
- 16 10. B-ketothiolase deficiency;
- 17 11. Homocystinuria;
- 18 12. Glutaric aciduria (types I and II);
- 19 13. Lysinuric protein intolerance;
- 20 14. Non-ketotic hyperglycinemia;
- 21 15. Propionic acidemia;
- 22 16. Gyrate atrophy;
- 23 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
- 24 18. Carbamoyl phosphate synthetase deficiency;
- 25 19. Ornithine carbamoyl transferase deficiency;
- 26 20. Citrullinemia;
- 27 21. Arginosuccinic aciduria;



- 1           22. Methylmalonic acidemia; and
- 2           23. Argininemia;
- 3       (d) Physician, podiatric, and dental services;
- 4       (e) Optometric services for all age groups shall be limited to prescription services,  
5           services to frames and lenses, and diagnostic services provided by an  
6           optometrist, to the extent the optometrist is licensed to perform the services  
7           and to the extent the services are covered in the ophthalmologist portion of the  
8           physician's program. Eyeglasses shall be provided only to children under age  
9           twenty-one (21);
- 10      (f) Drugs on the prescription of a physician used to prevent the rejection of  
11           transplanted organs if the patient is indigent;
- 12      (g) Nonprofit neighborhood health organizations or clinics where some or all of  
13           the medical services are provided by licensed registered nurses or by advanced  
14           medical students presently enrolled in a medical school accredited by the  
15           Association of American Medical Colleges and where the students or licensed  
16           registered nurses are under the direct supervision of a licensed physician who  
17           rotates his services in this supervisory capacity between two (2) or more of the  
18           nonprofit neighborhood health organizations or clinics specified in this  
19           paragraph;
- 20      (h) Services provided by health-care delivery networks as defined in KRS  
21           216.900;
- 22      (i) Services provided by midlevel health-care practitioners as defined in KRS  
23           216.900; and
- 24      (j) Smoking cessation treatment interventions or programs prescribed by a  
25           physician, advanced registered nurse practitioner, physician assistant, or  
26           dentist, including but not limited to counseling, telephone counseling through  
27           a quitline, recommendations to the recipient that smoking should be

1 discontinued, and prescription and over-the-counter medications and nicotine  
2 replacement therapy approved by the United States Food and Drug  
3 Administration for smoking cessation.

4 (2) Payments for hospital care, nursing-home care, and drugs or other medical,  
5 ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount  
6 of the payment to the cost of providing the services or supplies. It shall be one (1) of  
7 the functions of the council to make recommendations to the Cabinet for Health and  
8 Family Services with respect to the bases for payment. In determining the rates of  
9 reimbursement for long-term-care facilities participating in the Medical Assistance  
10 Program, the Cabinet for Health and Family Services shall, to the extent permitted  
11 by federal law, not allow the following items to be considered as a cost to the  
12 facility for purposes of reimbursement:

13 (a) Motor vehicles that are not owned by the facility, including motor vehicles  
14 that are registered or owned by the facility but used primarily by the owner or  
15 family members thereof;

16 (b) The cost of motor vehicles, including vans or trucks, used for facility business  
17 shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted  
18 annually for inflation according to the increase in the consumer price index-u  
19 for the most recent twelve (12) month period, as determined by the United  
20 States Department of Labor. Medically equipped motor vehicles, vans, or  
21 trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation.  
22 Costs exceeding this limit shall not be reimbursable and shall be borne by the  
23 facility. Costs for additional motor vehicles, not to exceed a total of three (3)  
24 per facility, may be approved by the Cabinet for Health and Family Services if  
25 the facility demonstrates that each additional vehicle is necessary for the  
26 operation of the facility as required by regulations of the cabinet;

27 (c) Salaries paid to immediate family members of the owner or administrator, or

1 both, of a facility, to the extent that services are not actually performed and are  
2 not a necessary function as required by regulation of the cabinet for the  
3 operation of the facility. The facility shall keep a record of all work actually  
4 performed by family members;

5 (d) The cost of contracts, loans, or other payments made by the facility to owners,  
6 administrators, or both, unless the payments are for services which would  
7 otherwise be necessary to the operation of the facility and the services are  
8 required by regulations of the Cabinet for Health and Family Services. Any  
9 other payments shall be deemed part of the owner's compensation in  
10 accordance with maximum limits established by regulations of the Cabinet for  
11 Health and Family Services. Interest paid to the facility for loans made to a  
12 third party may be used to offset allowable interest claimed by the facility;

13 (e) Private club memberships for owners or administrators, travel expenses for  
14 trips outside the state for owners or administrators, and other indirect  
15 payments made to the owner, unless the payments are deemed part of the  
16 owner's compensation in accordance with maximum limits established by  
17 regulations of the Cabinet for Health and Family Services; and

18 (f) Payments made to related organizations supplying the facility with goods or  
19 services shall be limited to the actual cost of the goods or services to the  
20 related organization, unless it can be demonstrated that no relationship  
21 between the facility and the supplier exists. A relationship shall be considered  
22 to exist when an individual, including brothers, sisters, father, mother, aunts,  
23 uncles, and in-laws, possesses a total of five percent (5%) or more of  
24 ownership equity in the facility and the supplying business. An exception to  
25 the relationship shall exist if fifty-one percent (51%) or more of the supplier's  
26 business activity of the type carried on with the facility is transacted with  
27 persons and organizations other than the facility and its related organizations.

- 1 (3) No vendor payment shall be made unless the class and type of medical care  
2 rendered and the cost basis therefor has first been designated by regulation.
- 3 (4) The rules and regulations of the Cabinet for Health and Family Services shall  
4 require that a written statement, including the required opinion of a physician, shall  
5 accompany any claim for reimbursement for induced premature births. This  
6 statement shall indicate the procedures used in providing the medical services.
- 7 (5) The range of medical care benefit standards provided and the quality and quantity  
8 standards and the methods for determining cost formulae for vendor payments  
9 within each category of public assistance and other recipients shall be uniform for  
10 the entire state, and shall be designated by regulation promulgated within the  
11 limitations established by the Social Security Act and federal regulations. It shall  
12 not be necessary that the amount of payments for units of services be uniform for  
13 the entire state but amounts may vary from county to county and from city to city, as  
14 well as among hospitals, based on the prevailing cost of medical care in each locale  
15 and other local economic and geographic conditions, except that insofar as allowed  
16 by applicable federal law and regulation, the maximum amounts reimbursable for  
17 similar services rendered by physicians within the same specialty of medical  
18 practice shall not vary according to the physician's place of residence or place of  
19 practice, as long as the place of practice is within the boundaries of the state.
- 20 (6) Nothing in this section shall be deemed to deprive a woman of all appropriate  
21 medical care necessary to prevent her physical death.
- 22 (7) To the extent permitted by federal law, no medical assistance recipient shall be  
23 recertified as qualifying for a level of long-term care below the recipient's current  
24 level, unless the recertification includes a physical examination conducted by a  
25 physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse  
26 practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's  
27 supervision.

- 1 (8) If payments made to community mental health centers, established pursuant to KRS  
 2 Chapter 210, for services provided to the intellectually disabled~~[mentally-retarded]~~  
 3 exceed the actual cost of providing the service, the balance of the payments shall be  
 4 used solely for the provision of other services to the intellectually  
 5 disabled~~[mentally-retarded]~~ through community mental health centers.
- 6 (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to  
 7 recipients of medical assistance under Title XIX of the Social Security Act on July  
 8 15, 1986, shall deny admission of a person to a bed certified for reimbursement  
 9 under the provisions of the Medical Assistance Program solely on the basis of the  
 10 person's paying status as a Medicaid recipient. No person shall be removed or  
 11 discharged from any facility solely because they became eligible for participation in  
 12 the Medical Assistance Program, unless the facility can demonstrate the resident or  
 13 the resident's responsible party was fully notified in writing that the resident was  
 14 being admitted to a bed not certified for Medicaid reimbursement. No facility may  
 15 decertify a bed occupied by a Medicaid recipient or may decertify a bed that is  
 16 occupied by a resident who has made application for medical assistance.
- 17 (10) Family-practice physicians practicing in geographic areas with no more than one (1)  
 18 primary-care physician per five thousand (5,000) population, as reported by the  
 19 United States Department of Health and Human Services, shall be reimbursed one  
 20 hundred twenty-five percent (125%) of the standard reimbursement rate for  
 21 physician services.
- 22 (11) The Cabinet for Health and Family Services shall make payments under the Medical  
 23 Assistance program for services which are within the lawful scope of practice of a  
 24 chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical  
 25 Assistance Program pays for the same services provided by a physician.
- 26 (12) The Medical Assistance Program shall use the form and guidelines established  
 27 pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for

1 participation in the Medical Assistance Program, including those licensed and  
 2 regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to  
 3 be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or  
 4 facility as determined by the Department for Medicaid Services through an  
 5 administrative regulation promulgated under KRS Chapter 13A.

- 6 (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements  
 7 of subsection (12) of this section. The Department for Medicaid Services shall  
 8 develop a specific form and establish guidelines for assessing the credentials of  
 9 dentists applying for participation in the Medical Assistance Program.

10 ➔Section 13. KRS 205.6317 is amended to read as follows:

- 11 (1) As used in this section:

12 (a) "Supports for Community Living Waiver Program" means funding from the  
 13 Department for Medicaid Services to serve individuals with an intellectual  
 14 disability~~[mental retardation]~~ or other developmental disabilities who qualify  
 15 for intermediate care and choose to live in a community-based setting and  
 16 includes funding for a self-determination model, as recommended by the  
 17 Commission on Services and Supports for Individuals with an Intellectual  
 18 Disability~~[Mental Retardation]~~ and Other Developmental Disabilities under  
 19 KRS 210.577(2), that provides the ability for the individual receiving services  
 20 and supports to personally control, with appropriate assistance, a targeted  
 21 amount of dollars; and

22 (b) "Slots" means the dedication of provider or financial resources for services to  
 23 persons with mental retardation or other developmental disabilities.

- 24 (2) The Department for Medicaid Services shall develop and implement flexible  
 25 reimbursement and payment strategies that reflect the individually determined needs  
 26 for services and supports by persons with an intellectual disability~~[mental~~  
 27 ~~retardation]~~ and other developmental disabilities participating in the Supports for

1 Community Living Waiver Program.

2 (3) The Department for Medicaid Services shall allocate slots to the fourteen (14)  
3 community mental health regions based on percentage of total population.

4 (4) The Department for Medicaid Services shall reallocate underutilized slots to address  
5 statewide needs and shall reallocate slots in emergency situations to address unmet  
6 needs for services and supports.

7 (5) The Department for Medicaid Services shall promulgate administrative regulations  
8 in accordance with KRS Chapter 13A to implement the requirements of this section.

9 (6) Funds for the Supports for Community Living Waiver Program shall be  
10 appropriated only for direct services to qualified individuals and any unexpended  
11 funds shall not lapse but shall be carried forward to the next fiscal year and shall be  
12 used for the same purpose.

13 ➔Section 14. KRS 210.040 is amended to read as follows:

14 The Cabinet for Health and Family Services shall:

15 (1) Exercise all functions of the state in relation to the administration and operation of  
16 the state institutions for the care and treatment of persons with mental illness;

17 (2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550,  
18 other or additional facilities for psychiatric care and treatment of persons who are or  
19 may become state charges;

20 (3) Cooperate with other state agencies for the development of a statewide mental  
21 health program looking toward the prevention of mental illness and the post-  
22 institutional care of persons released from public or private mental hospitals;

23 (4) Provide for the custody, maintenance, care, and medical and psychiatric treatment  
24 of the patients of the institutions operated by the cabinet;

25 (5) Provide psychiatric consultation for the state penal and correctional institutions, and  
26 for the state institutions operated for children or for persons with an intellectual  
27 disability~~mental retardation~~;

- 1 (6) Administer and supervise programs for the noninstitutional care of persons with  
2 mental illness;
- 3 (7) Administer and supervise programs for the care of persons with chronic mental  
4 illness, including but not limited to provision of the following:
- 5 (a) Identification of persons with chronic mental illness residing in the area to be  
6 served;
- 7 (b) Assistance to persons with chronic mental illness in gaining access to essential  
8 mental health services, medical and rehabilitation services, employment,  
9 housing, and other support services designed to enable persons with chronic  
10 mental illness to function outside inpatient institutions to the maximum extent  
11 of their capabilities;
- 12 (c) Establishment of community-based transitional living facilities with twenty-  
13 four (24) hour supervision and community-based cooperative facilities with  
14 part-time supervision; provided that, no more than either one (1) transitional  
15 facility or one (1) cooperative facility may be established in a county  
16 containing a city of the first class or consolidated local government with any  
17 funds available to the cabinet;
- 18 (d) Assurance of the availability of a case manager for each person with chronic  
19 mental illness to determine what services are needed and to be responsible for  
20 their provision; and
- 21 (e) Coordination of the provision of mental health and related support services  
22 with the provision of other support services to persons with chronic mental  
23 illness;
- 24 (8) Require all providers who receive public funds through state contracts, state grants,  
25 or reimbursement for services provided to have formalized quality assurance and  
26 quality improvement processes, including but not limited to a grievance procedure;  
27 and



1 (9) Supervise private mental hospitals receiving patients committed by order of a court.

2 ➔Section 15. KRS 210.045 is amended to read as follows:

3 (1) The Cabinet for Health and Family Services shall:

4 (a) Maintain, operate, and assume program responsibility for all state institutions  
5 and facilities for intellectual disability~~[mental retardation]~~;

6 (b) Provide rehabilitation services for individuals with an intellectual  
7 disability~~[mentally retarded persons]~~ through educational and training  
8 programs;

9 (c) Provide medical and allied services to individuals with an intellectual  
10 disability~~[mentally retarded persons]~~ and their families;

11 (d) Encourage and assist communities to develop programs and facilities in the  
12 field of intellectual disability~~[mental retardation]~~;

13 (e) Sponsor or carry out research, or both, in the field of intellectual  
14 disability~~[mental retardation]~~;

15 (f) Assist other governmental and private agencies in the development of  
16 programs and services for individuals with an intellectual disability~~[mentally~~  
17 ~~retarded persons]~~ and their families and for the prevention of intellectual  
18 disability~~[mental retardation]~~, and coordinate programs and services so  
19 developed;

20 (g) Provide written notice to the Legislative Research Commission of its intent to  
21 propose legislation to permit immediate or gradual closure of any state-owned  
22 or state-operated facility that provides residential services to persons with an  
23 intellectual disability~~[mental retardation]~~ or other developmental disabilities  
24 at least sixty (60) days prior to the next legislative session; and

25 (h) 1. Provide written notice by registered mail to each resident, his or her  
26 immediate family, if known, and his or her guardian of its intent to  
27 propose legislation to permit immediate or gradual closure of any state-

1           operated facility that provides residential services to persons with an  
 2           intellectual disability~~[mental retardation]~~ or other developmental  
 3           disabilities at least sixty (60) days prior to the next legislative session;  
 4           and

- 5           2. Include in the written notice provided under this paragraph that the  
 6           resident, the resident's immediate family, his or her guardian, or any  
 7           other interested party with standing to act on behalf of the resident has  
 8           the right to pursue legal action relating to the notice provisions of this  
 9           paragraph and relating to the closure of the facility.

- 10       (2) Any state-owned or state-operated facility or group home that provides residential  
 11       services to persons with an intellectual disability~~[mental retardation]~~ or other  
 12       developmental disabilities and that has been funded by the General Assembly in a  
 13       specific biennium, shall not be closed, nor shall the Cabinet for Health and Family  
 14       Services announce the pending closure of the facility, during the same biennium  
 15       except through the provisions specified by subsection (1) of this section.

- 16       (3) The Cabinet for Health and Family Services may close any state-owned or state-  
 17       operated facility that provides residential services to persons with an intellectual  
 18       disability~~[mental retardation]~~ or other developmental disabilities upon the effective  
 19       date of an adopted act of legislation.

- 20       (4) When a demonstrated health or safety emergency exists for a facility or a federal  
 21       action that requires or necessitates a gradual or immediate closure exists for the  
 22       facility, the cabinet may seek relief from the requirements of this section in the  
 23       Circuit Court of the county where the facility is located. In these situations:

- 24       (a) The cabinet shall provide written notice by registered mail to each resident,  
 25       the resident's immediate family, if known, and his or her guardian, at least ten  
 26       (10) days prior to filing an emergency petition in the Circuit Court; and  
 27       (b) All interested parties, including the cabinet, the resident, his or her immediate

1 family, his or her guardian, or other interested parties with standing to act on  
 2 behalf of the resident shall have standing in the proceedings under this  
 3 subsection.

4 (5) Any resident, family member or guardian, or other interested parties, as defined by  
 5 KRS 387.510(12) with standing to act on behalf of the resident who wishes to  
 6 challenge the decision or actions of the Cabinet for Health and Family Services  
 7 regarding the notice requirements of subsection (1) of this section shall have a cause  
 8 of action in the Circuit Court of the county in which the facility is located, or in  
 9 Franklin Circuit Court. In addition to other relief allowable by law, the resident,  
 10 family member or guardian, or other interested party with standing to act on behalf  
 11 of the resident may seek compensatory damages and attorney fees. Punitive  
 12 damages shall not be allowable under this section.

13 (6) Any resident, family member or guardian, or other interested parties, as defined by  
 14 KRS 387.510(12) with standing to act on behalf of the resident may challenge the  
 15 decision of the state to close a facility in a de novo hearing in the Circuit Court of  
 16 the county in which the facility is located, or in Franklin Circuit Court. In addition  
 17 to other relief allowable by law, the resident, family member or guardian, or other  
 18 interested party with standing to act on behalf of the resident may seek  
 19 compensatory damages and attorney fees. Punitive damages shall not be allowable  
 20 under this section.

21 ➔Section 16. KRS 210.047 is amended to read as follows:

22 A court hearing as provided under KRS 210.045(6) shall consider each of the following  
 23 items relevant to the closure of the facility:

- 24 (1) Estimated timelines for the implementation of the closure of the facility;
- 25 (2) The types and array of available and accessible community-based services for  
 26 individuals with an intellectual disability~~[mental retardation]~~ and other  
 27 developmental disabilities and their families;

- 1 (3) The rights of individuals with *an intellectual disability*~~[mental retardation]~~ and
- 2 other developmental disabilities;
- 3 (4) The process used to develop a community living plan;
- 4 (5) Individual and community monitoring and safeguards to protect health and safety;
- 5 (6) The responsibilities of state and local governments;
- 6 (7) The process used to transfer ownership or the state's plan to reuse the property; and
- 7 (8) Other issues identified by the cabinet, the resident, family member or guardian, or
- 8 other interested party with standing to act on behalf of the resident that may affect
- 9 the residents, their families, employees, and the community.

10 ➔Section 17. KRS 210.055 is amended to read as follows:

11 The Cabinet for Health and Family Services may:

- 12 (1) Promulgate reasonable rules and regulations for the purposes of carrying out the
- 13 provisions of KRS 210.045, including regulations establishing the minimum and
- 14 maximum ages within which *individuals with an intellectual disability*~~[mentally~~
- 15 ~~retarded persons]~~ are eligible:
  - 16 (a) To participate in programs operated by the cabinet;
  - 17 (b) To become patients in institutions operated by the cabinet;
- 18 (2) Participate in the education and training of professional and other persons in the
- 19 field of mental retardation, and may encourage and assist private and public
- 20 agencies and institutions to participate in similar education and training;
- 21 (3) Do all other things reasonably necessary to carry out the provisions of KRS
- 22 210.045.

23 ➔Section 18. KRS 210.270 is amended to read as follows:

- 24 (1) The secretary of the Cabinet for Health and Family Services is authorized to
- 25 designate those private homes, private nursing homes, and private institutions that
- 26 he deems, after a thorough investigation of the personal and financial qualifications
- 27 of the owners and tenants, the facilities and management, and the desirability of the

1 location of the homes, suitable for the placement of patients, including individuals  
 2 with mental illness or *an intellectual disability*~~[mental retardation]~~ of all ages,  
 3 outside of the state mental hospitals. The secretary of the Cabinet for Health and  
 4 Family Services may promulgate, by administrative regulation, standards for the  
 5 selection and operation of private homes, private nursing homes, and private  
 6 institutions designated for the placement of patients. No home of an officer or  
 7 employee of the Cabinet for Health and Family Services or of a member of his  
 8 immediate family shall be designated for the placement of patients.

9 (2) Whenever the staff of a state mental hospital has determined that a patient who is  
 10 not being held on an order arising out of a criminal offense has sufficiently  
 11 improved and is not dangerous to himself or other persons, and that it would be in  
 12 the patient's best interest to be placed outside of the hospital in a private home or  
 13 private nursing home, the hospital shall so certify and authorize the patient to be  
 14 transferred to a designated private home or private nursing home for care and  
 15 custody for a length of time that the hospital deems advisable.

16 (3) No patient with *an intellectual disability*~~[mental retardation]~~ lodged in a state  
 17 institution may have his level of care reclassified nor may he be transferred to a  
 18 private nursing home or other private institution without first providing ten (10)  
 19 days' notice by certified mail, return receipt requested, to the patient's parents or  
 20 guardian that a reclassification of the patient's level of care or a transfer in the place  
 21 of residence is being considered.

22 (4) Any parent or guardian of any patient with *an intellectual disability*~~[mental~~  
 23 ~~retardation]~~ lodged in a state institution may participate in any evaluation procedure  
 24 which may result in a reclassification of the patient's level of care or in a transfer in  
 25 the place of residence of the patient. Participation may include the submission by  
 26 the parents or guardian of medical evidence or any other evidence deemed relevant  
 27 by the parents or guardian to the possible reclassification or transfer of the patient.

- 1 (5) If the decision to reclassify or transfer any patient with *an intellectual*  
 2 *disability*~~[mental retardation]~~ is adverse to the best interests of the patient as  
 3 expressed by the parents or guardian, they shall be given notice by certified mail,  
 4 return receipt requested, that they are entitled to a thirty (30) day period from the  
 5 receipt of such notice to file with the secretary of the Cabinet for Health and Family  
 6 Services a notice of appeal and application for a hearing. Upon receipt of an  
 7 application for a hearing, a hearing shall be conducted in accordance with KRS  
 8 Chapter 13B.
- 9 (6) The appeal shall be heard by a three (3) member panel composed of a designated  
 10 representative of the Cabinet for Health and Family Services, a designated  
 11 representative of the state institution where the patient with *an intellectual*  
 12 *disability*~~[mental retardation]~~ is presently lodged, and a designated neutral  
 13 representative appointed by the county judge/executive wherein the institution in  
 14 question is located. The secretary may appoint a hearing officer to preside over the  
 15 conduct of the hearing.
- 16 (7) Decisions made by the panel may be appealed to the Circuit Court of the county in  
 17 which the state institution in question is located, to the Circuit Court of the county  
 18 in which either of the parents or guardians or committee of the patient in question is  
 19 domiciled at the time of the decision, or to Franklin Circuit Court in accordance  
 20 with KRS Chapter 13B.
- 21 (8) All parents or guardians or committee of a patient with *an intellectual*  
 22 *disability*~~[mental retardation]~~ lodged in a state institution shall be fully apprised by  
 23 the Cabinet for Health and Family Services of their rights and duties under the  
 24 provisions of subsections (3), (4), (5), (6), and (7) of this section.
- 25 (9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to  
 26 designated private homes and private nursing homes as though the patients were  
 27 residing in a state mental hospital.

➔Section 19. KRS 210.271 is amended to read as follows:

- (1) No patient in an institution for the mentally ill or the intellectually disabled~~[mentally retarded]~~ operated by the Cabinet for Health and Family Services shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.
- (2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for Community Based Services for appropriate placement. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Community Health Services for investigation.

➔Section 20. KRS 210.410 is amended to read as follows:

- (1) The secretary of the Cabinet for Health and Family Services is hereby authorized to make state grants and other fund allocations from the Cabinet for Health and Family Services to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and intellectual disability~~[mental retardation]~~ programs which shall provide at least the following services:
  - (a) Inpatient services;
  - (b) Outpatient services;
  - (c) Partial hospitalization or psychosocial rehabilitation services;
  - (d) Emergency services;
  - (e) Consultation and education services; and
  - (f) Services for individuals with an intellectual disability~~[Mental retardation]~~

1           services}.

2       (2) The services required in subsection (1)(a), (b), (c), (d), and (e) of this section shall  
3       be available to the mentally ill, drug abusers and alcohol abusers, and all age groups  
4       including children and the elderly. The services required in subsection (1)(a), (b),  
5       (c), (d), (e), and (f) shall be available to individuals with an intellectual  
6       disability~~[the mentally retarded]~~. The services required in subsection (1)(b) of this  
7       section shall be available to any child age sixteen (16) or older upon request of such  
8       child without the consent of a parent or legal guardian, if the matter for which the  
9       services are sought involves alleged physical or sexual abuse by a parent or  
10      guardian whose consent would otherwise be required.

11      ➔Section 21. KRS 210.570 is amended to read as follows:

12      The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

13      (1) Assistance and support to citizens of the Commonwealth with an intellectual  
14      disability~~[mental retardation]~~ and other developmental disabilities are necessary and  
15      appropriate roles of state government;

16      (2) The current system of services and supports to persons with an intellectual  
17      disability~~[mental retardation]~~ and other developmental disabilities suffers from a  
18      lack of program coordination, funding, controls on quality of care, and review and  
19      evaluation;

20      (3) As part of the review and evaluation, it is necessary to require:

21      (a) Identification, development, and provision of services and supports for  
22      persons with an intellectual disability~~[mental retardation]~~ and other  
23      developmental disabilities using available institutional care as appropriate and  
24      integrated with community-based services designed to be inclusive,  
25      responsive to individual needs, and protective of the individual's legal rights  
26      to equal opportunity;

27      (b) Review of current funding mechanisms to determine the best method to



1 establish an array of community-based comprehensive services using facility-  
 2 based outpatient services and supports that are available through public and  
 3 private sectors, including nonprofit and for-profit service providers, that will  
 4 allow persons with an intellectual disability~~[mental retardation]~~ and other  
 5 developmental disabilities the opportunity to participate in community life.  
 6 The review shall include consideration of the availability of residential  
 7 alternatives, employment opportunities, and opportunities for participation in  
 8 community-based social and recreational activities; and

9 (c) Development of funding strategies to promote appropriate use of community-  
 10 based services and supports that provide:

- 11 1. Flexibility for persons with an intellectual disability~~[mental retardation]~~  
 12 and other developmental disabilities;
- 13 2. Distribution of available funds among all interested service providers,  
 14 including nonprofit and for-profit service providers, based on the needs  
 15 of the person with mental retardation and other developmental  
 16 disabilities; and
- 17 3. Efficiency and accountability to the general public;

18 (4) KRS 210.570 to 210.577 shall be construed to protect and to promote the  
 19 continuing development and maintenance of the physical, mental, and social skills  
 20 of persons with mental retardation and other developmental disabilities; and

21 (5) KRS 210.570 to 210.577 shall not be construed:

- 22 (a) To alter any requirements or responsibilities that are mandated by any state or  
 23 federal law;
- 24 (b) To relieve any organizational unit or administrative body of its duties under  
 25 state or federal law; or
- 26 (c) To transfer among state organizations or administrative bodies any  
 27 responsibilities, powers, or duties that are mandated by state or federal law.

1        ➔Section 22. KRS 210.575 is amended to read as follows:

2        (1) There is created the Kentucky Commission on Services and Supports for  
3        Individuals with *Intellectual Disabilities*~~[Mental Retardation]~~ and Other  
4        Developmental Disabilities. The commission shall consist of:

- 5        (a) The secretary of the Cabinet for Health and Family Services;
- 6        (b) The commissioner of the Department for Mental Health and Mental  
7        Retardation Services;
- 8        (c) The commissioner of the Department for Medicaid Services;
- 9        (d) The executive director of the Office of Vocational Rehabilitation;
- 10       (e) The director of the University Affiliated Program at the Interdisciplinary  
11       Human Development Institute of the University of Kentucky;
- 12       (f) The director of the Kentucky Council on Developmental Disabilities;
- 13       (g) Two (2) members of the House of Representatives, appointed by the Speaker  
14       of the House;
- 15       (h) Two (2) members of the Senate, appointed by the Senate President; and
- 16       (i) Public members, appointed by the Governor as follows:

- 17           1. Five (5) family members, at least one (1) of whom shall be a member of  
18           a family with a child with *an intellectual disability*~~[mental retardation]~~  
19           or other developmental disabilities, and one (1) of whom shall be a  
20           member of a family with an adult with *an intellectual disability*~~[mental~~  
21           ~~retardation]~~ or other developmental disabilities. Of these five (5) family  
22           members, at least two (2) shall be members of a family with an  
23           individual with *an intellectual disability*~~[mental retardation]~~ or other  
24           developmental disabilities residing in the home of the family member or  
25           in a community-based setting, and at least two (2) shall be members of a  
26           family with an individual with *an intellectual disability*~~[mental~~  
27           ~~retardation]~~ or other mental disabilities residing in an institutional

1 residential facility that provides service to individuals with an  
 2 intellectual disability~~[mental retardation]~~ or other developmental  
 3 disabilities;

4 2. Three (3) persons with an intellectual disability~~[mental retardation]~~ or  
 5 other developmental disabilities;

6 3. Two (2) business leaders;

7 4. Three (3) direct service providers representing the Kentucky Association  
 8 of Regional Programs and the Kentucky Association of Residential  
 9 Resources; and

10 5. One (1) representative of a statewide advocacy group.

11 The six (6) appointments made under subparagraphs 1. and 2. of this  
 12 paragraph shall be chosen to reflect representation from each of Kentucky's  
 13 six (6) congressional districts.

14 (2) The secretary of the Cabinet for Health and Family Services shall serve as chair of  
 15 the commission.

16 (3) Members defined in subsection (1)(a) to (h) of this section shall serve during their  
 17 terms of office. All public members appointed by the Governor shall serve a four  
 18 (4) year term and may be reappointed for one (1) additional four (4) year term.

19 (4) All public members of the commission shall receive twenty-five dollars (\$25) per  
 20 day for attending each meeting. All commission members shall be reimbursed for  
 21 necessary travel and other expenses actually incurred in the discharge of duties of  
 22 the commission.

23 ➔Section 23. KRS 210.577 is amended to read as follows:

24 (1) The commission created in KRS 210.575 shall meet at least quarterly or upon the  
 25 call of the chair, the request of four (4) or more members, or the request of the  
 26 Governor.

27 (2) The commission shall serve in an advisory capacity to accomplish the following:

- 1 (a) Advise the Governor and the General Assembly concerning the needs of  
2 persons with *an intellectual disability*~~[mental retardation]~~ and other  
3 developmental disabilities;
- 4 (b) Develop a statewide strategy to increase access to community-based services  
5 and supports for persons with *an intellectual disability*~~[mental retardation]~~  
6 and other developmental disabilities. The strategy shall include:
  - 7 1. Identification of funding needs and related fiscal impact; and
  - 8 2. Criteria that establish priority for services that consider timeliness and  
9 service needs;
- 10 (c) Assess the need and potential utilization of specialized outpatient clinics for  
11 medical, dental, and special therapeutic services for persons with *an*  
12 *intellectual disability*~~[mental retardation]~~ and other developmental  
13 disabilities;
- 14 (d) Evaluate the effectiveness of state agencies and public and private service  
15 providers, including nonprofit and for-profit service providers, in:
  - 16 1. Dissemination of information and education;
  - 17 2. Providing outcome-oriented services; and
  - 18 3. Efficiently utilizing available resources, including blended funding  
19 streams;
- 20 (e) Develop a recommended comprehensive ten (10) year plan for placement of  
21 qualified persons in the most integrated setting appropriate to their needs;
- 22 (f) Recommend an effective quality assurance and consumer satisfaction  
23 monitoring program that includes recommendations as to the appropriate role  
24 of family members, persons with *an intellectual disability*~~[mental retardation]~~  
25 and other developmental disabilities, and advocates in quality assurance  
26 efforts;
- 27 (g) Develop recommendations for the implementation of a self-determination

1 model of funding services and supports as established under KRS 205.6317(1)  
 2 for persons who are receiving services or supports under the Supports for  
 3 Community Living Program as of June 24, 2003. The model shall include, but  
 4 is not limited to, the following:

- 5 1. The ability to establish an individual rate or budget for each person;
- 6 2. Mechanisms to ensure that each participant has the support and  
 7 assistance necessary to design and implement a package of services and  
 8 supports unique to the individual;
- 9 3. The ability to arrange services, supports, and resources unique to each  
 10 person based upon the preferences of the recipient; and
- 11 4. The design of a system of accountability for the use of public funds.

12 The chairperson of the commission shall appoint an ad-hoc committee  
 13 composed of commission members and other interested parties to develop the  
 14 recommendations required by this paragraph; and

15 (h) Advise the Governor and the General Assembly on whether the  
 16 recommendations should be implemented by administrative regulations or  
 17 proposed legislation.

- 18 (3) The commission shall review the plan annually and shall submit annual updates no  
 19 later than October 1 to the Governor and the Legislative Research Commission.

20 ➔Section 24. KRS 210.580 is amended to read as follows:

- 21 (1) The Kentucky Commission on Services and Supports for Individuals with an  
 22 Intellectual Disability~~[Mental Retardation]~~ and Other Developmental Disorders  
 23 established in KRS 210.575, and the Kentucky Commission on Services and  
 24 Supports to Individuals with Mental Illness, Alcohol and Other Drug Disorders, and  
 25 Dual Diagnoses established in KRS 210.502 shall, by August 1, 2004, establish a  
 26 joint ad hoc committee on transitioning from children's services systems to adult  
 27 services systems for children who will continue to need services or supports after

1 reaching age twenty-one (21).

2 (2) The co-chairpersons of each commission shall each designate a joint ad hoc  
3 committee chairperson and appoint up to ten (10) members for the joint ad hoc  
4 committee. At least seventy-five percent (75%) of the membership shall be  
5 composed of family members of consumers of adult or child services, advocates,  
6 and nonprofit and community-based providers of adult and child services and  
7 supports. Members of the commissions may serve as a chairperson and may be  
8 appointed to the ad hoc committee.

9 (3) The joint ad hoc committee shall develop recommendations for implementation of  
10 specific plans of action to meet the needs of children who transition to adult  
11 services systems.

12 (4) The joint ad hoc committee shall make a preliminary report by October 30, 2004,  
13 and shall make a final report by December 30, 2004, to both commissions and to the  
14 Interim Joint Committee on Health and Welfare.

15 ➔Section 25. KRS 216.510 is amended to read as follows:

16 As used in KRS 216.515 to 216.530:

17 (1) "Long-term-care facilities" means those health-care facilities in the Commonwealth  
18 which are defined by the Cabinet for Health and Family Services to be family-care  
19 homes, personal-care homes, intermediate-care facilities, skilled-nursing facilities,  
20 nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate-  
21 care facilities for the intellectually~~[mentally-retarded]~~ and developmentally  
22 disabled.

23 (2) "Resident" means any person who is admitted to a long-term-care facility as defined  
24 in KRS 216.515 to 216.530 for the purpose of receiving personal care and  
25 assistance.

26 (3) "Cabinet" means the Cabinet for Health and Family Services.

27 ➔Section 26. KRS 216.535 is amended to read as follows:

1 As used in KRS 216.537 to 216.590:

- 2 (1) "Long-term care facilities" means those health care facilities in the Commonwealth  
3 which are defined by the Cabinet for Health and Family Services to be family care  
4 homes, personal care homes, intermediate care facilities, skilled nursing facilities,  
5 nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate  
6 care facilities for the intellectually~~mentally-retarded~~ and developmentally  
7 disabled.
- 8 (2) "Cabinet" means the Cabinet for Health and Family Services.
- 9 (3) "Resident" means any person admitted to a long-term care facility as defined by this  
10 section.
- 11 (4) "Licensee" in the case of a licensee who is an individual means the individual, and  
12 in the case of a licensee who is a corporation, partnership, or association means the  
13 corporation, partnership, or association.
- 14 (5) "Secretary" means the secretary of the Cabinet for Health and Family Services.
- 15 (6) "Long-term care ombudsman" means the person responsible for the operation of a  
16 long-term care ombudsman program which investigates and resolves complaints  
17 made by or on behalf of residents of long-term care facilities.
- 18 (7) "Willful interference" means an intentional, knowing, or purposeful act or omission  
19 which hinders or impedes the lawful performance of the duties and responsibilities  
20 of the ombudsman as set forth in this chapter.
- 21 (8) The following information shall be available upon request of the affected Medicaid  
22 recipient or responsible party:
  - 23 (a) Business names, business addresses, and business telephone numbers of  
24 operators and administrators of the facility; and
  - 25 (b) Business names, business addresses, and business telephone numbers of staff  
26 physicians and the directors of nursing.
- 27 (9) The following information shall be provided to the nursing facility patient upon

1 admission:

- 2 (a) Admission and discharge policies of the facility;
- 3 (b) Payment policies relevant to patients for all payor types; and
- 4 (c) Information developed and distributed to the nursing facility by the
- 5 Department for Medicaid Services, including, but not limited to:
  - 6 1. Procedures for implementation of all peer review organizations' reviews
  - 7 and appeals processes;
  - 8 2. Eligibility criteria for the state's Medical Assistance Program, including
  - 9 circumstances when eligibility may be denied; and
  - 10 3. Names and telephone numbers for case managers and all state long term
  - 11 care ombudsmen.

12 ➔Section 27. KRS 304.17-310 is amended to read as follows:

- 13 (1) Family expense health insurance is that provided under a policy issued to one (1) of
- 14 the family members insured, who shall be deemed the policyholder, covering any
- 15 two (2) or more eligible members of a family, including husband, wife, unmarried
- 16 dependent children, to age nineteen (19), unmarried children from nineteen (19) to
- 17 twenty-five (25) years of age who are full-time students enrolled in and attending an
- 18 accredited educational institution and who are primarily dependent on the
- 19 policyholder for maintenance and support, and any other person dependent upon the
- 20 policyholder. Any authorized health insurer may issue the insurance.
- 21 (2) An individual hospital or medical expense insurance policy or hospital or medical
- 22 service plan contract delivered or issued for delivery in this state more than 120
- 23 days after June 13, 1968, which provides that coverage of a dependent child shall
- 24 terminate upon attainment of the limiting age for dependent children specified in the
- 25 policy or contract shall also provide in substance that attainment of the limiting age
- 26 shall not operate to terminate the coverage of the child while the child is and
- 27 continues to be both (a) incapable of self-sustaining employment by reason of an



1 intellectual~~[mental-retardation]~~ or physical disability and (b) chiefly dependent  
 2 upon the policyholder or subscriber for support and maintenance, provided proof of  
 3 the incapacity and dependency is furnished to the insurer or corporation by the  
 4 policyholder or subscriber within thirty-one (31) days of the child's attainment of  
 5 the limiting age and subsequently as may be required by the insurer or corporation  
 6 but not more frequently than annually after the two (2) year period following the  
 7 child's attainment of the limiting age.

- 8 (3) Insurers offering family expense health insurance shall offer the applicant the option  
 9 to purchase coverage for unmarried dependent children until age twenty-five (25).

10 ➔ Section 28. KRS 387.540 is amended to read as follows:

- 11 (1) Prior to a hearing on a petition for a determination of partial disability or disability  
 12 and the appointment of a limited guardian, guardian, limited conservator, or  
 13 conservator, an interdisciplinary evaluation report shall be filed with the court. The  
 14 report may be filed as a single and joint report of the interdisciplinary evaluation  
 15 team, or it may otherwise be constituted by the separate reports filed by each  
 16 individual of the team. If the court and all parties to the proceeding and their  
 17 attorneys agree to the admissibility of the report or reports, the report or reports  
 18 shall be admitted into evidence and shall be considered by the jury. The report shall  
 19 be compiled by at least three (3) individuals, including a physician, a psychologist  
 20 licensed or certified under the provisions of KRS Chapter 319, and a person  
 21 licensed or certified as a social worker or an employee of the Cabinet for Health and  
 22 Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or  
 23 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from  
 24 among employees of the Cabinet for Health and Family Services residing or  
 25 working in the area, and there shall be no additional compensation for their service  
 26 on the interdisciplinary evaluation team.

- 27 (2) At least one (1) person participating in the compilation of the report shall have

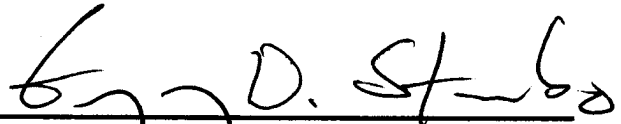
- 1 knowledge of the particular disability which the respondent is alleged to have or  
 2 knowledge of the skills required of the respondent to care for himself and his estate.
- 3 (3) If the respondent is alleged to be partially disabled or disabled due to mental illness,  
 4 at least one (1) person participating in the compilation of the interdisciplinary  
 5 evaluation report shall be a qualified mental health professional as defined in KRS  
 6 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to  
 7 an intellectual disability~~[mental retardation]~~, at least one (1) person participating in  
 8 the compilation of the evaluation report shall be a qualified mental retardation  
 9 professional as defined in KRS 202B.010(12).
- 10 (4) The interdisciplinary evaluation report shall contain:
- 11 (a) A description of the nature and extent of the respondent's disabilities, if any;
- 12 (b) Current evaluations of the respondent's social, intellectual, physical, and  
 13 educational condition, adaptive behavior, and social skills. Such evaluations  
 14 may be based on prior evaluations not more than three (3) months old, except  
 15 that evaluations of the respondent's intellectual condition may be based on  
 16 individual intelligence test scores not more than one (1) year old;
- 17 (c) An opinion as to whether guardianship or conservatorship is needed, the type  
 18 of guardianship or conservatorship needed, if any, and the reasons therefor;
- 19 (d) An opinion as to the length of time guardianship or conservatorship will be  
 20 needed by the respondent, if at all, and the reasons therefor;
- 21 (e) If limited guardianship or conservatorship is recommended, a further  
 22 recommendation as to the scope of the guardianship or conservatorship,  
 23 specifying particularly the rights to be limited and the corresponding powers  
 24 and duties of the limited guardian or limited conservator;
- 25 (f) A description of the social, educational, medical, and rehabilitative services  
 26 currently being utilized by the respondent, if any;
- 27 (g) A determination whether alternatives to guardianship or conservatorship are


- 1           available;
- 2           (h) A recommendation as to the most appropriate treatment or rehabilitation plan
- 3           and living arrangement for the respondent and the reasons therefor;
- 4           (i) A listing of all medications the respondent is receiving, the dosage, and a
- 5           description of the impact of the medication upon the respondent's mental and
- 6           physical condition and behavior;
- 7           (j) An opinion whether attending a hearing on a petition filed under KRS 387.530
- 8           would subject the respondent to serious risk of harm;
- 9           (k) The names and addresses of all individuals who examined or interviewed the
- 10          respondent or otherwise participated in the evaluation; and
- 11          (l) Any dissenting opinions or other comments by the evaluators.
- 12   (5) The evaluation report may be compiled by a community mental health-mental
- 13   retardation center, a licensed facility for mentally ill or developmentally disabled
- 14   persons, if the respondent is a resident of such facility, or a similar agency.
- 15   (6) In all cases where the respondent is a resident of a licensed facility for mentally ill
- 16   or developmentally disabled persons and the petition is filed by an employee of that
- 17   facility, the petition shall be accompanied by an interdisciplinary evaluation report
- 18   prepared by the facility.
- 19   (7) Except as provided in subsection (6) of this section, the court shall order
- 20   appropriate evaluations to be performed by qualified persons or a qualified agency.
- 21   The report shall be prepared and filed with the court and copies mailed to the
- 22   attorneys for both parties at least ten (10) days prior to the hearing. All items
- 23   specified in subsection (4) of this section shall be included in the report.
- 24   (8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners
- 25   shall be paid by the county in which the petition is filed upon an order of allowance
- 26   entered by the court. Payment shall be in an amount which is reasonable as
- 27   determined by the court, except no payment shall be required of the county for an

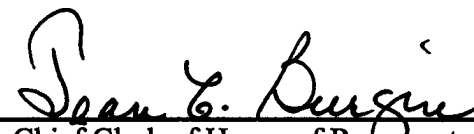
1 evaluation performed by a salaried employee of a state agency for an evaluation  
2 performed within the course of his employment. Additionally, no payment shall be  
3 required of the county for an evaluation performed by a salaried employee of a  
4 community mental health-mental retardation center or private facility or agency  
5 where the costs incurred by the center, facility, or agency are reimbursable through  
6 third-party payors. Affidavits or other competent evidence shall be admissible to  
7 prove the services rendered but not to prove their value.

8 (9) The respondent may file a response to the evaluation report no later than five (5)  
9 days prior to the hearing.

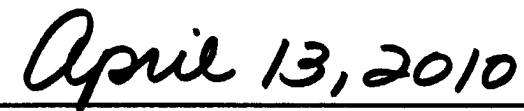
10 (10) The respondent may secure an independent evaluation. If the respondent is unable  
11 to pay for the evaluation, compensation for the independent evaluation may be paid  
12 by the county in an amount which is reasonable as determined by the court.

  
\_\_\_\_\_  
Speaker House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_